

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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DATE FILED: 4/7/2021

RYAN DORGAN,

Plaintiff,

-against-

FIRST KLASS BREAKFAST, LLC,

Defendant.

1:20-cv-04253 (MKV)

ORDER OF  
DISMISSAL

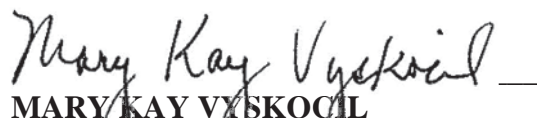
MARY KAY VYSKOCIL, United States District Judge:

The Complaint in this action was filed on June 3, 2020 [ECF No. 1]. Defendants were served, but never responded to Plaintiff's complaint. *See* ECF No. 6. Plaintiff sought a default judgment [ECF No. 11], but the Court denied the motion without prejudice to refile on September 18, 2020. *See* Order, ECF No. 16. Since then, Plaintiff has taken no action to prosecute this case. Accordingly, it is hereby:

ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court's calendar if the application to restore the action is made by **May 7, 2021**. Any application to reopen this case must also explain why Plaintiff delayed in filing a motion for default judgment, and must include a proposed schedule on which Plaintiff will file any such motion. If no such application is made by that date, today's dismissal of the action is with prejudice. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

**SO ORDERED.**

**Date: April 6, 2021**  
**New York, NY**

  
MARY KAY VYSKOCIL  
United States District Judge